

Chapter 2

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ARTICLE I. IN GENERAL**Sec. 2-1. Form of government.**

There is hereby adopted for the government of the city the Council form of government as provided in S.C. Code 1976, § 5-11-10 et seq., as amended. The council shall consist of a mayor and six councilmembers who shall serve terms of four years each. The mayor shall be elected at large and one member of council shall be elected from each election district established in section 10-1 by the qualified electors of each district. Members shall serve four-year terms of office.

(Code 1964, § 2-01; Code 1980, § 2-1; Ord. No. 1990-1, § 1, 3-6-1990)

State law references—Selection of form of municipal government, S.C. Code 1976, § 5-5-10; duty to provide, by ordinance, for method of election of council, which also provides that mayor shall be elected at large, S.C. Code 1976, § 5-15-20.

Sec. 2-2. City seal.

The seal of the city is described as follows: Within the first or outer circle is engraved "City Council of Gaffney, S.C.," and in the middle circle is the word "Seal." Such seal shall be and is hereby established and declared to be the common seal of the city. The city clerk shall have the custody of the seal and the same shall be kept by him at all times in his office.

(Code 1964, § 2-1; Code 1980, § 2-2)

Sec. 2-3. Fiscal year.

The fiscal year for the city shall commence on July 1 in each year, for purposes of accounting and auditing of city finances, but taxes for the city shall be assessed, imposed and collected for each calendar year.

(Code 1964, § 2-2; Code 1980, § 2-3; Ord. No. 1990-2, § 1, 3-6-1990)

Sec. 2-4. Terms of boards and commissions; resignations.

(a) *Short title.* The official title of this section shall be "Ordinance Regulating the Terms of Boards and Commissions."

(b) *Purpose.* The purpose of this section is to provide uniform regulations concerning the number of successive terms that a board or commission member may serve.

(c) *Application.* This section shall apply to all boards and commissions that are appointed by the mayor and/or city council.

(d) *Maximum number of successive terms.* No member of any city board or commission appointed by the mayor and/or city council shall be limited to any particular number of consecutive terms of service, and any member shall be eligible for reappointment at the end of his term if otherwise qualified; provided, however, that if any member fails to attend at least 25 percent of the meetings of said board or commission, said member shall be deemed to have resigned his position and council may appoint his successor as soon as reasonably possible.

(e) *Resignation.* Any member of a city board or commission may, if he should elect to do so, resign from one city board or commission to become a member of another city board or commission, if appointed by city council.

(Code 1980, § 2-4; Ord. No. 1989-8, §§ 1—5, 6-20-1989; Ord. No. 2007-15, 12-3-2007; Ord. No. 2008-05, § 2-4, 6-2-2008)

Sec. 2-5. Standing committees.

(a) There are hereby established nine standing committees of council as set forth in subsection (c) of this section.

(b) The composition of the nine standing committees shall be as follows:

- (1) Each committee shall consist of two members of council, one of whom will be the chairperson.
- (2) In addition, the mayor shall be an ex officio member of each standing committee.
- (3) The mayor shall appoint each member of council to at least one committee and shall appoint the chairperson of each committee.
- (4) Each committee member shall serve a term of one year and may be reappointed at the discretion of the mayor.
- (5) The initial term of all committees is deemed to have begun on October 1, 1996, and shall end on September 30, 1997. Each succeeding term shall begin on October 1 and end on September 30, thereafter.
- (6) Matters that are referred to a committee must receive the support of a majority of the committee before being brought to council.

(c) The standing committees of council shall be as follows:

- (1) *Personnel committee.* The personnel committee shall be responsible for policy recommendations to the full council on the general administration of the city government in matters such as, but not limited to, personnel and the organizational structure of the government. The committee will supervise and coordinate all personnel matters of the police and fire committees. The committee will review and evaluate the rules, regulations, and activities of the civil service commission and report their findings and recommendations to the full council.
- (2) *Legislative committee.* The legislative committee shall be responsible for policy recommendations to the full council on the need for adopting new ordinances, revising or repealing old ordinances and for the liaison with other legislative bodies, local, state or federal.
- (3) *Public relations committee.* The public relations committee shall be responsible for policy recommendations to the full council concerning the development and maintenance of positive relations between the city government and the general public and on all community service matters of the city.

- (4) *Police committee.* The police committee shall be responsible for policy recommendations to the full council concerning the operation, performance, needs, personnel, public relations and community service matters of the police department.
- (5) *Fire committee.* The fire committee shall be responsible for policy recommendations to the full council concerning the operation, performance, needs, personnel, public relations, and community service matters of the fire department.
- (6) *Finance committee.* The finance committee shall be responsible for policy recommendations to the full council concerning financial ways and means and the purchasing operations of the city. The committee will also, in conjunction with the city administrator, review and evaluate the need for changes in city tax ordinances, bond issues, professional service expenditure, contracts of the city and any agencies that receive appropriations from the city.
- (7) *Community development committee.* The community development committee shall be responsible for policy recommendations to the full council concerning planning, zoning, building inspection, and community service matters of the city as well as the community development department.
- (8) *Streets committee.* The streets committee shall be responsible for policy recommendations to the full council concerning the construction, maintenance, and improvements of all streets, sidewalks, drainage systems, buildings and complexes of the city, as well as the appearance and beautification of all city streets, properties, buildings, and complexes.
- (9) *Sanitation committee.* The sanitation committee shall be responsible for policy recommendations to the full council concerning the collection and disposal of all solid and organic waste within the city limits.

(Code 1980, § 2-5; Ord. No. 1996-10, §§ 1—3, 10-21-1996)

Sec. 2-6. Administrative fee assessment.

(a) The city imposes an administrative fee in the amount of \$25.00 to defray its internal costs of collection for any delinquent debts that are sought to be collected pursuant to the Setoff Debt Collection Act, S.C. Code 1976, § 12-56-10 et seq. This fee is declared to be a collection cost that arises by operation of law and shall be added to the delinquent debt and recovered from the debtor.

(b) The city declares that the administrative fee charged by the Municipal Association of South Carolina is also a collection cost to the city, which also shall be added to the delinquent debt and recovered from the debtor.

(Ord. No. 2006-6, 9-5-2006)

Secs. 2-7—2-30. Reserved.

ARTICLE II. MAYOR**Sec. 2-31. To be chief executive officer; general powers and duties.**

The mayor shall be the chief executive officer of the city and shall exercise all powers and authority vested in him by the city's ordinances and the laws of the state. In addition to the powers and duties exercised and required of him by law or ordinance, it shall be his duty to be vigilant and active at all times in causing the ordinances and laws for the government of the city to be duly executed and put into force, to inspect the conduct of all subordinate officers in the government or management of their respective offices and, as far as is in his power, to cause all negligence, carelessness and positive violation of duty to be duly prosecuted and punished.

(Code 1964, § 2-13; Code 1980, § 2-14)

Sec. 2-32. Mayor pro tem.

At the first meeting after organization, or as soon thereafter as practicable, the council shall elect a mayor pro tem, who shall perform all the duties pertaining to the office of mayor, in the absence of the mayor due to sickness, incapacity or other cause.

(Code 1964, § 2-17; Code 1980, § 2-15)

State law reference—Election of mayor pro tem, S.C. Code 1976, § 5-7-190.

Sec. 2-33. Authority relative to city officers generally.

The mayor shall have full power to give such orders and directions to the executive officers of the city as may be necessary to carry out the provisions of this Code and other ordinances and regulations of the city, and require them to attend them for that purpose, at any time, whenever the public business may, in his opinion, render such attendance necessary.

(Code 1964, § 2-14; Code 1980, § 2-16)

Sec. 2-34. Investigation of city books, papers and records.

The mayor shall have full power to investigate the books, papers and records of the offices of the city, whenever, in his opinion, it may be necessary, or appoint others to do so.

(Code 1964, § 2-16; Code 1980, § 2-17)

Sec. 2-35. Suppression of riots and preservation of order.

It shall be the duty of the mayor to take all proper measures for the suppression of riots and the preservation of public order for which purpose he is hereby authorized to require all the city officers and, if necessary, the citizens of the city to aid and assist him. He is authorized to use the police in promptly and effectually putting down and suppressing riots which may be excited in violation of the peace and good order of the city and in defiance of the laws.

(Code 1964, § 2-15; Code 1980, § 2-18)

Sec. 2-36. Proclamation of emergency.

(a) *Issuance; scope.* Whenever, in the judgment of the mayor, or, in the event of his inability to act, the mayor pro tem, an emergency exists in the city as a result of mob action or other civil disobedience causing danger of injury to persons or to property, he shall have the power to impose, by proclamation, any or all of the following regulations necessary to preserve the peace and order of the city:

- (1) To impose a curfew upon all or any portion of the city, thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other places; provided, however, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firefighters and city-authorized or city-requested law enforcement officers and personnel may be exempted from such curfew.
- (2) To order the closing of any business establishments anywhere within the city for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, beer, wine, cereal malt beverages, gasoline or firearms.
- (3) To designate any public street, thoroughfare or vehicle parking area closed to motor vehicles and pedestrian traffic.
- (4) To call upon regular and auxiliary law enforcement officers, agencies and organizations, within or without the city, to assist in preserving and keeping the peace within the city.

(b) *When effective.* The proclamation of emergency provided for in this section shall become effective upon its issuance and dissemination to the public by appropriate news media.

(c) *Termination; extension.* Any emergency proclaimed in accordance with the provisions of this section shall terminate after 48 hours from the issuance of the proclamation or upon the issuance of a proclamation determining that the emergency no longer exists, whichever occurs first; provided, however, that such emergency may be extended for such additional periods of time as determined necessary by resolution of the city council.

(d) *Violations and penalties.* Any person who shall willfully fail or refuse to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency authorized by this section shall be deemed guilty of a misdemeanor.

(Code 1964, § 2-15.1; Code 1980, § 2-19)

Secs. 2-37—2-60. Reserved.

ARTICLE III. CITY COUNCIL

Sec. 2-61. Vesting of legislative and administrative powers.

All legislative and administrative powers of the city and the determination of all matters of policy shall be vested in the city council. Each member of council, including the mayor, shall have one vote.

(Code 1964, § 2-28; Code 1980, § 2-30; Ord. No. 1990-1, § 2, 3-6-1990)

Sec. 2-62. Oath of members.

As soon as the result of the general election for mayor and councilman is declared, such officers shall take and subscribe to the oath required by the Constitution and the laws of the state as provided in section 10-11, unless delayed or hindered for some unavoidable reason, in which event they shall take and subscribe to such oath as soon as practicable thereafter. In any election to fill an unexpired term, the person elected shall take the oath of office as early after his election as practicable. Such oath may be administered by any person authorized by law to administer oaths and the same shall be filed in the office of the city clerk.

(Code 1964, § 2-29; Code 1980, § 2-31)

State law reference—Oath for mayor and councilmen, S.C. Code 1976, § 5-15-150.

Sec. 2-63. Time of regular meetings; call of special meetings.

The regular meetings of the city council shall be held on the first Monday of every month, at such hour as the council prescribes, unless said Monday falls on a local, state, or federal holiday, in which case the said meeting shall be held on the next following day which is not a local, state, or federal holiday, or on other such day as council may prescribe. Special meetings may be held at any time on the call of the mayor or a majority of the members of the council.

(Code 1964, § 2-30; Code 1980, § 2-32; Ord. No. 2007-4, 3-5-2007)

State law reference—Council to meet at least once a month, S.C. Code 1976, § 5-7-250.

Sec. 2-64. Presiding officer.

Immediately at the hour appointed for a meeting of the council, the mayor shall preside. In the mayor's absence, the mayor pro tem shall preside. In the absence of both the mayor and the mayor pro tem, the city treasurer shall preside. In the absence the mayor, the mayor pro tem, and the city treasurer, council shall elect a temporary chairperson to preside over the meeting.

(Code 1964, § 2-31; Code 1980, § 2-33)

Sec. 2-65. General rules of procedure.

(a) Any item to come before the city council for action must be listed on the agenda before being considered. The only exception will be matters of an emergency nature. The item must be given to the city clerk in writing by 12:00 noon on the Wednesday before the council meeting on the following Monday.

(b) City council meetings and the agenda shall be conducted in the following order:

- (1) Invocation.
- (2) Approval of minutes from previous meetings.
- (3) Any items listed on agenda for action.
- (4) Consideration of petitions.
- (5) Reports from standing and/or special committees.
- (6) Consideration of communications received.
- (7) Miscellaneous business not included in the preceding.

(c) A matter brought before council for action may be acted upon in the following ways:

- (1) Referred to committee by the mayor.
- (2) Voted upon by council.
- (3) Tabled by council.
- (4) Received by council as information.
- (5) Referred to the administrative staff.

(d) Committee recommendations to council must be listed as individual items on the agenda.

(Code 1980, § 2-34; Ord. No. 1991-6, 8-6-1991; Ord. No. 2006-1, 2-6-2006)

Sec. 2-66. Rules of order for council meetings.

(a) Before speaking or making a motion, a councilman must be recognized by the mayor. If a councilman has been recognized, he may not be interrupted. If two councilmembers ask to be recognized at the same time, the mayor must decide who to recognize first.

(b) Before any item on the agenda is opened to discussion, the following three steps must be followed:

- (1) A councilman must make a motion.
- (2) Another councilman must second the motion.
- (3) The motion must be stated by the mayor for accuracy. The mayor will then call for discussion. After it is felt that sufficient discussion has taken place, either the mayor or a councilman may call for the question.

(c) After discussion, the motion may either be voted upon or tabled. To table or delay action on a motion, a motion must be made and receive a second and a majority vote by council. There will be no discussion of a motion to table a matter. A tabled motion will remain tabled until called for by the mayor or any councilman at any subsequent meeting.

(d) The mayor shall decide all questions of order unless overruled by a majority of council.

(e) After a matter on the agenda has been disposed of, it may not be brought up again at the same meeting, except upon motion of a councilmember who previously voted with the prevailing side.

(f) When a committee recommendation appears on the agenda, the chairperson of that committee shall make the motion to accept the recommendation.

(g) If a quorum is not present within 15 minutes after the time of the meeting, no members present will be required to remain.

(h) No councilman shall be allowed to explain his vote unless permitted by a majority of council.

(i) All committee actions must be approved by full council before becoming policy.

(j) When no procedure is specified in this Municipal Code, the procedures contained in Robert's Rules of Order, Newly Revised, 10th Edition, Perseus Publishing Company shall apply. In the event of a conflict between specific provisions contained in this Municipal Code and Robert's Rules of Order, the provisions of this Code shall prevail.

(Code 1980, § 2-35; Ord. No. 1991-6, 8-6-1991; Ord. No. 2004-20, 12-6-2004)

Sec. 2-67. Establishment of offices.

The city council shall have the power to establish such subordinate offices as it sees fit and assign to such offices appropriate duties.

(Code 1964, § 2-40; Code 1980, § 2-42)

Sec. 2-68. Election of officers.

The election or appointment of officers by the city council shall be by ballot, except as otherwise provided for by ordinance, and determined by a majority of the votes actually given.

(Code 1964, § 2-41; Code 1980, § 2-43)

Sec. 2-69. Corrective actions; department heads responsible to city administrator.

(a) It is the duty of the city administrator to ensure that the various heads carry forth and implement any policy that has been passed by the city council, and to take those corrective actions that are necessary when any policy is being ignored or violated.

(b) All department heads are directly responsible to the city administrator and he shall have disciplinary authority over every department head and subordinate of the city. The administrator shall communicate to the appropriate committee any policy violations or insubordination of the department heads or subordinates.

(Code 1980, § 2-45; Ord. No. 1993-11, 9-20-1993)

Sec. 2-70. Provision for and appointment of committees in addition to standing committees.

The city council may provide for other committees, in addition to standing committees, and the membership on same shall be appointed by the mayor.

(Code 1964, § 2-45; Code 1980, § 2-47)

Sec. 2-71. Disturbing, interfering with, etc., council.

It shall be unlawful for any person to disturb, interfere with or interrupt any meeting of the city council, or assault, strike, menace, insult, molest or abuse any member of the council during his attendance at any meeting or while otherwise in the proper discharge of his duty as such member.

(Code 1964, § 2-49; Code 1980, § 2-51)

Secs. 2-72—2-100. Reserved.**ARTICLE IV. CITY ADMINISTRATOR*****Sec. 2-101. Employed.**

A city administrator shall be employed by the city council.

(Code 1964, § 2-126; Code 1980, § 2-62)

Sec. 2-102. Term of office.

The city administrator shall serve at the pleasure of the city council for such term as the council shall desire.

(Code 1964, § 2-127; Code 1980, § 2-63)

Sec. 2-103. Bond.

The city administrator, prior to entering upon the performance of the duties of office, shall enter into an approved bond in such sum as prescribed by the city council, conditioned for the faithful and honest performance of the duties of such office.

(Code 1964, § 2-128; Code 1980, § 2-64)

Sec. 2-104. Powers and duties.

The city administrator shall be responsible to the city council for the proper administration of the policies and affairs of the city, and to that end shall have the power and authority and be required to:

- (1) Direct, supervise and coordinate the administrative activities and operation of the city.

***State law reference**—Authority of council to hire an administrator, S.C. Code 1976, § 5-11-40.

- (2) Employ, promote, reassign, demote, discipline, and discharge all city employees, volunteers, and other workers, with council approval required for department heads.
 - (3) Prepare a proposed annual operating budget in consultation with the council, finance committee and department heads and submit such proposed budget to the council for review and consideration.
 - (4) Prepare and annually update a five-year capital improvements program and budget, in consultation with the council, finance committee and city departments and submit such proposed program and budget to the council for review and consideration.
 - (5) Recommend to the council personnel policies, job positions and salary scales for all city employees.
 - (6) Monitor the financial condition of the city and estimate present and future financial needs.
 - (7) Prepare monthly reports on administrative activities.
 - (8) Prepare monthly reports on financial activities.
 - (9) Combine or consolidate job positions within departments, as necessary to maximize manpower utilization and efficiency.
 - (10) Recommend to the council policies governing purchasing procedures and inventory control.
 - (11) Authorize the purchase of services, materials, supplies and, provided such items are appropriated in the annual operating budget, capital improvements budget.
 - (12) Authorize shifts in departmental budget line items provided overall departmental budget appropriations do not change.
 - (13) Investigate complaints concerning administrative matters and personnel performance.
- (Code 1964, § 2-129; Code 1980, § 2-66; Ord. No. 1993-11, 9-20-1993; Ord. No. 1999-7, § V, 2-11-1999)

Sec. 2-105. Communications between city administrator and council; limitation on councilman giving orders to subordinates.

The city administrator shall relate to and communicate with the mayor and chairpersons of standing council committees and with the council as a whole, concerning any and all problems, situations and conditions which arise concerning any department or activity of the city which, in the opinion of the city administrator, is of significance. Except for the purpose of inquiry, the members of the council shall communicate directly with the city administrator in any and all matters concerning any department or activity of the city. No member of the council shall give orders to any subordinate of the city administrator, except in case of an emergency.

(Code 1964, § 2-131; Code 1980, § 2-67)

Sec. 2-106. Signing and attesting ordinances, deeds and other documents.

The city administrator, along with the mayor, who shall sign as chief executive officer of the city, shall sign and attest all ordinances, deeds, contracts or other documents which require the official signature of the city.

(Code 1964, § 2-67; Code 1980, § 2-84)

Secs. 2-107—2-127. Reserved.**ARTICLE V. CITY CLERK****Sec. 2-128. Appointment.**

A city clerk shall be appointed by the city council in accordance with the provisions of state law.

(Code 1964, § 2-61; Code 1980, § 2-78)

State law reference—Appointment of clerk, S.C. Code 1976, § 5-7-220.

Sec. 2-129. Subject to orders, directions, etc., of council.

The city clerk shall be subject to the orders and directions of the city council and to such penalties as the council may prescribe.

(Code 1964, § 2-63; Code 1980, § 2-80)

Sec. 2-130. General duties.

The clerk shall attend all meetings of city council, shall take minutes thereof, and record the same in a suitable book, and keep an index book in connection therewith, in which shall be indexed the subject matter of important matters in the proceedings of the council, with a reference to the page of the record book where such matters appear, and shall lay before the council all communications and other papers addressed to it through him. He shall have the proceedings of the council promptly published in a local newspaper, when so required by the council, and he shall have the charge and be responsible for the preservation of all papers, records and documents of every description pertaining to the city, and shall so arrange and file all such papers in packages or cases as will facilitate access to them, arranging and filing the same according to their subject matter, and numbering the packages or cases numerically.

(Code 1964, § 2-64; Code 1980, § 2-81)

Secs. 2-131—2-156. Reserved.**ARTICLE VI. CITY TREASURER****Sec. 2-157. Election; may be member of council.**

The city council, at its first meeting of organization, or as soon thereafter as practicable, shall elect a city treasurer, who may be one of the members of the council.

(Code 1964, § 2-81; Code 1980, § 2-97)

Sec. 2-158. Acting treasurer.

During any temporary vacancy or incapacity of the treasurer, the council shall designate one of its members to perform the duties of the treasurer's office.

(Code 1964, § 2-88; Code 1980, § 2-99)

Sec. 2-159. General duties.

The treasurer shall perform all duties imposed upon him by law or as may be prescribed by the city council.

(Code 1964, § 2-83; Code 1980, § 2-100)

Sec. 2-160. Countersigning checks and vouchers; protection and care of city finances.

All accounts payable and transfer checks shall require the signature of any two of the following individuals: mayor, city administrator, or treasurer. Payroll checks shall require one signature of either the mayor, city administrator or treasurer.

(Code 1964, § 2-84; Code 1980, § 2-101; Ord. No. 1994-3, 6-20-1994)

Sec. 2-161. Inspection of financial records.

The treasurer shall regularly inspect all financial records of the city and ensure their adequacy and accuracy.

(Code 1964, § 2-85; Code 1980, § 2-102)

Sec. 2-162. Reports to council.

At the end of each fiscal year, and as often as the council shall direct, the treasurer, with the aid of the city administrator, shall submit or cause to be submitted an audit report to the council showing all taxes, penalties, assessments, license fees and other moneys paid to the city, and shall also report to the council on any delinquencies reflected by the records, together with his recommendations for action thereon.

(Code 1964, § 2-87; Code 1980, § 2-104)

Secs. 2-163—2-192. Reserved.

ARTICLE VII. CITY ATTORNEY

Sec. 2-193. Appointment.

A city attorney shall be appointed by the city council.

(Code 1964, § 2-100; Code 1980, § 2-115)

State law reference—Appointment of attorney, S.C. Code 1976, § 5-7-230.

Sec. 2-194. Qualifications.

The city attorney shall possess the qualifications of and be a practicing attorney duly licensed in the state.

(Code 1964, § 2-101; Code 1980, § 2-116)

Sec. 2-195. Term.

The city attorney shall serve at the pleasure of the city council for such term as the council shall desire.

(Code 1964, § 2-102; Code 1980, § 2-117)

Sec. 2-196. General duties.

The city attorney shall discharge all the duties prescribed by the laws of the state. He shall exercise diligence that the city council and the officers of the city government do not fall into errors of law in the management of the corporate affairs of the city.

(Code 1964, § 2-103; Code 1980, § 2-118)

Sec. 2-197. Duty to attend council meetings.

The city attorney shall attend meetings of the city council, when notified.

(Code 1964, § 2-104; Code 1980, § 2-119)

Sec. 2-198. Duty to advise and assist mayor, council and city officers.

When requested, the city attorney shall give his advice, direction and assistance to the mayor, city council, standing committees or special committees and all other officers duly charged with the administration of the city government. He shall likewise advise and assist the police officers in the performance of their duties.

(Code 1964, § 2-105; Code 1980, § 2-120)

Sec. 2-199. Prosecution and defense of actions; appearance in legal proceedings.

The city attorney shall prosecute and defend all civil actions in which the city may be a party and he shall prosecute on behalf of the city all criminal cases in the municipal court, whenever requested so to do by the city administrator or by the mayor or council. He shall appear on behalf of the city and its officers in all legal proceedings to which it or they, or any of them, may be a party or have any interest therein as an official of the city, whenever requested so to do by the city administrator or by the mayor or council.

(Code 1964, § 2-106; Code 1980, § 2-121)

Sec. 2-200. Drafting ordinances and instruments; legal correspondence.

The city attorney, when directed by the council or the city administrator, shall prepare the draft of any ordinance or instrument in writing which the mayor or council may desire, and he shall conduct the correspondence of the city on all legal subjects.

(Code 1964, § 2-107; Code 1980, § 2-122)

Secs. 2-201—2-223. Reserved.

ARTICLE VIII. PURCHASING*

Sec. 2-224. Purchasing agent; specified duties.

The city administrator, or an officer of the city designated by the city administrator, shall be the purchasing agent for the city. He shall be responsible for:

- (1) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the city government;
- (2) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the city government;
- (3) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any office, department or agency of the city government. Such specifications shall be definite and certain and shall permit competition;
- (4) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses;
- (5) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a bidder's list. The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the city, or who have failed to meet established specifications or delivery dates;
- (6) Obtaining as full and open competition as possible on all purchases, contracts and sales.

(Code 1980, § 2-200; Ord. No. 1983-4, § 1, 6-7-1983)

Sec. 2-225. Formal contract procedure; informal quotes.

(a) *Contract or public auction requirements generally.* All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000.00, shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting proposals. No contract or purchase shall be subdivided to avoid the requirements of this section. All sales of personal property which has become obsolete or unusable, when the estimated value shall exceed \$5,000.00, shall be sold by formal written contract or at a public auction to the highest responsible bidder, after due notice inviting proposals and bidders.

***State law references**—Political subdivisions required to adopt procurement ordinances, S.C. Code 1976, § 11-35-50; procurement and intergovernmental relations, S.C. Code Reg. 19-445.2155.

(b) *Bidding.* Competition purchasing shall be accomplished in three different ways, depending on the estimated dollar value of the purchase:

- (1) For purchases between \$1,000.00 and \$2,500.00, an informal verbal quote shall be obtained;
- (2) For purchases between \$2,500.00 and \$5,000.00, an informal written quote shall be obtained; and
- (3) For purchases over \$5,000.00, formal sealed bids shall be obtained.

(c) *Informal verbal quotes.*

- (1) The informal verbal quote procedure is intended for use in the purchases of items with an estimated purchase cost of \$1,000.00 to \$2,500.00. Under this procedure, all suppliers in the appropriate category on the bidders list shall be contacted and asked if they wish to make a verbal price quotation on the materials, equipment or supplies proposed to be purchased. This quote shall be for the total cost of the items, including any delivery or setup charges. Suppliers shall have 48 hours to respond, at which time the city administrator or designated department head shall choose the lowest responsible bid. All informal verbal quotes shall be recorded on a summary of bids sheet and retained as public record.
- (2) Failure to meet the terms of an informal verbal quote without an adequate reason, as determined by the city administrator, shall result in removal of the supplier from the bidder list.

(d) *Informal written quotes.*

- (1) The informal written quote procedure is intended for use in the purchase of items with an estimated purchase cost of \$2,500.00 to \$5,000.00. Under this procedure, all suppliers in the appropriate category on the bidder list shall be contacted and asked if they wish to make a written price quotation on the materials, equipment or supplies proposed to be purchased. This quote shall be for the total cost of the items, including any delivery or setup charges.
- (2) No specific format is necessary for submission of an informal written quote. Suppliers shall have five working days to respond to a bid request, at which time the city administrator shall choose the lowest responsible bid. All informal written quotes shall be recorded on a summary of bids sheet and retained as public record.
- (3) Informal written quotes differ from formal bids in that they will not be incorporated into a legally binding contract. Failure to comply with an informal written quote without adequate reason, as determined by the city administrator, shall result in removal of the supplier from the bidder list.

(e) *Formal sealed bids.* The formal sealed bid procedure is intended to be used in the purchase of all materials, equipment and supplies with an estimated purchase cost exceeding \$5,000.00. Under this procedure, invitation for bid forms shall be sent to all suppliers in the

appropriate category on the city's bidders list. The invitation for bid shall contain all terms, conditions and specifications to be used by suppliers in preparing their bid proposals. These same terms, conditions and specifications will be incorporated into a final contract award. (Code 1980, § 2-201; Ord. No. 1983-4, § 2, 6-7-1983; Ord. No. 1998-14, 9-21-1998; Ord. No. 2008-1, 2-4-2008)

Sec. 2-226. Award to lowest bidder; advertising, when required.

All contracts for city improvements, materials, equipment, or services costing more than \$10,000.00 shall be awarded to the lowest responsible bidder, after publication in a newspaper of general circulation in the city at least five days before the last day set for receipt of proposals; provided, however, that in case of professional services, this section shall not apply. The newspaper notice required herein shall include a general description of the articles or services to be purchased, and shall state where bid blanks and specifications may be secured and the time and place for opening bids.

(Code 1980, § 2-202; Ord. No. 1983-4, § 3, 6-7-1983)

Sec. 2-227. Bid deposits.

When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of bid deposit, where the purchasing agent has required such. A successful bidder shall forfeit any bid deposit required by the purchasing agent, upon failure on his part to enter into a contract within ten days after the award; provided, however, that the city, in its uncontrolled discretion, may waive this forfeiture.

(Code 1980, § 2-203; Ord. No. 1983-4, § 4, 6-7-1983)

Sec. 2-228. Sealed bid procedures.

Procedure for sealed bids shall be as follows:

- (1) *Sealing.* Bids shall be submitted to the purchasing agent securely sealed in an envelope, and shall be identified on the envelope in accordance with bid instructions.
- (2) *Opening.* Bids shall be opened in public at the time and place stated in the public notices.
- (3) *Tabulation.* A tabulation of all bids received shall be available for public inspection.
- (4) *Rejection of bids.* The purchasing agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.
- (5) *Bidders in default to city.* The purchasing agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, license, or other moneys due the city.

(6) *Award of contract.*

- a. *Authority in agent.* The purchasing agent shall have the authority to award contracts within the purview of this article and in accordance with the budget ordinance;
- b. *Lowest responsible bidder.* Contracts shall be awarded to the lowest responsible bidder. In determining lowest responsible bidder, in addition to price, the purchasing agent shall consider:
 1. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
 2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
 3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 4. The quality of performance of previous contracts or services;
 5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
 6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
 7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
 8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 9. The number and scope of conditions attached to the bid.

(7) *Award to other than low bidder.* When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the papers relating to the transaction and held for a period of no less than 12 months.

(8) *Tie bids; preference given local vendors.* If all the bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bids are submitted by local bidders, the purchasing agent shall award the contract to one of the local tie bidders by drawing lots in public. If local bidders are not involved in the tie bids, the purchasing agent shall award the contract to one of the outside tie bidders by drawing lots in public.

(9) *Performance bonds.* The purchasing agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount as he shall find reasonably necessary to protect the best interest of the city.

(10) *Payment bond / labor and material bond.* The purchasing agent may require a payment bond and a labor and material bond, before entering into a contract, in such form and amount as he shall deem necessary to protect the best interest of the city.
(Code 1980, § 2-204; Ord. No. 1983-4, § 5, 6-7-1983; Ord. No. 1998-14, 9-21-1998; Ord. No. 2008-1, 2-4-2008)

Sec. 2-229. Materials testing.

The purchasing agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries, which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the city government or any outside laboratory.
(Code 1980, § 2-205; Ord. No. 1983-4, § 6, 6-7-1983)

Sec. 2-230. Financial interest of city officials and employees prohibited.

No member of the city council or any officer or employee of the city shall have a financial interest in any contract, or in the sale to the city or to a contractor supplying the city of any land or rights or interests in any land, material, supplies or services, except when a majority of the city council determines such exception in the best interest of the city, provided that no councilman whose interest is involved shall vote on the question. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the city shall render the contract voidable by the city administrator or the city council.
(Code 1980, § 2-206; Ord. No. 1983-4, § 7, 6-7-1983)

Sec. 2-231. Records of open market orders and bids.

The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to public inspection.
(Code 1980, § 2-207; Ord. No. 1983-4, § 8, 6-7-1983)

Sec. 2-232. Stock reports.

All offices, departments or agencies of the city government shall submit to the purchasing agent, at such times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.
(Code 1980, § 2-208; Ord. No. 1983-4, § 9, 6-7-1983)

Sec. 2-233. Surplus stock.

The purchasing agent shall have authority to transfer surplus stock to other offices, departments or agencies of the city government.
(Code 1980, § 2-209; Ord. No. 1983-4, § 10, 6-7-1983)

Sec. 2-234. Supplies unsuitable for public use, sale or exchange.

The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade in the same on, new supplies. Such sales shall be made to the highest bidder, after due notice and advertisement. All moneys received from such sales shall be paid into the appropriate city fund.

(Code 1980, § 2-210; Ord. No. 1983-4, § 11, 6-7-1983)

Sec. 2-235. Gifts and rebates.

The purchasing agent and every officer and employee of the city are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded, any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the city.

(Code 1980, § 2-211; Ord. No. 1983-4, § 12, 6-7-1983)

Sec. 2-236. Cooperative purchasing.

The purchasing agent shall have authority to join with other units of government in cooperative purchasing plans, when the best interests of the city would be served thereby; provided that the purchasing agent of the city is given the authority to make purchases of supplies and equipment through the property division of the state budget and control board, without the formality of publication and receiving competitive bids. The purchasing agent is authorized to purchase goods and services from local vendors if their price is equal to or less than the price through the property division of the state budget and control board ("state purchasing"), without the necessity of advertising for bids.

(Code 1980, § 2-212; Ord. No. 1983-4, § 13, 6-7-1983; Ord. No. 2007-7, 6-18-2007)

Sec. 2-237. Formal/informal bid procedures waived under certain conditions.

(a) The informal and formal bid procedures may be waived under the following conditions upon the approval of the city council:

- (1) When there exists no possibility of a competitive bid as in the case of only one known source of supply. A contract may awarded without competition upon determinations, after conducting a good faith review of available sources, that there is only one source for the required supply, service or construction item. A record of sole source procurement shall be maintained that lists each contractor's name, the amount and type of each contract, a listing of the items procured under the contract. A written determination of the basis for the purchase and for the selection of the particular contractor shall be included in the contract file.
- (2) When it is to the advantage of the city to acquire goods and/or services on the basis of a previously awarded bid or contract (i.e., past experience with price, quality, service, etc.). A written determination of the basis for the purchase and for the selection of the particular contractor shall be included in the contract file.
- (3) In the case of emergency purchases as defined in subsection (b) of this section.

(b) Notwithstanding any other provisions of this policy, the administrator may authorize others to make emergency procurements of supplies, services or construction items when there exists an imminent threat to public health, welfare or safety; provided that such emergency procurements shall be made with such competition as is practical under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(Code 1980, § 2-213; Ord. No. 1998-14, 9-21-1998)

Sec. 2-238. Resident vendor preference.

(a) *Definition.* As used in this section, the term "resident vendor" means a vendor who:

- (1) Is an individual, partnership, association, corporation or other entity that has a current business license issued by the city;
- (2) Maintains an office in the city; and
- (3) Has paid all assessed taxes and license fees to the city.

(b) *Preference to city residents.* A preference of five percent shall be provided to vendors who are residents of the city as set forth in this section.

(c) *Application.* Resident vendor preference shall be granted by the city to bidders resident to the city, provided that the bidder has certified in writing in the bid that the bidder is resident of the city.

(d) *Exceptions.* Nothing contained in this section or any other section of this article shall prevent the city from accepting a bid other than the lowest bid, when it is in the best interest of the city to do so.

(e) *Enforcement.* A bidder shall be suspended or debarred from doing business with the city if the city administrator determines that the certification made by the bidder as to the resident vendor request is not valid.

(f) *Requests for preference required.* If a bidder has not requested the preference, he will not be entitled to claim any preference against another bidder nor will he be protected from application of another bidder's claim to a preference against his bid in determining contract award.

(Code 1980, § 2-214; Ord. No. 1998-14, 9-21-1998)

Chapter 3

RESERVED

